

1  
2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 Estate of VALERIE YOUNG, by VIOLA YOUNG,  
5 as Administratrix of the Estate of  
Valerie Young, and in her personal  
6 capacity, SIDNEY YOUNG, and LORETTA  
YOUNG LEE,

Plaintiffs,

7 vs.

Index No.:  
07CV6241

8 STATE OF NEW YORK OFFICE OF MENTAL  
9 RETARDATION AND DEVELOPMENTAL  
DISABILITIES, PETER USCHAKOW,  
10 personally and in his official  
capacity, JAN WILLIAMSON, personally  
11 and in her official capacity, SURESH  
12 ARYA, personally and in his official  
capacity, KATHLEEN FERDINAND,  
13 personally and in her official  
capacity, GLORIA HAYES, personally and  
14 in her official capacity, DR. MILOS,  
personally and in his official capacity,

Defendants.

15 -----X

16 April 11, 2008  
17 10:06 a.m.

18 Examination before trial of PETER  
19 ALEXANDER USCHAKOW, held at the offices  
20 of The Catafago Law Firm, P.C., 350 Fifth  
21 Avenue, New York, New York, pursuant to  
22 Notice, before Wendy D. Boskind, a  
23 Registered Professional Reporter and  
24 Notary Public of the State of New York.  
25

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ALSO PRESENT:

PATRICIA PAWLOWSKI, ESQ.

Counsel's Office

Office of Mental Retardation

and Developmental Disabilities

1                   Uschakow

2           A.     There are --

3                   MR. VELEZ:  Objection, it's  
4           varying.

5           Q.     Well, if you could tell me.

6                   If it's too voluminous to  
7     state on the record, then let me know  
8     that, also, because then my next question  
9     is going to be how did you ensure  
10    compliance.  Did you have a manual?  Is  
11    there some other way?  Right now the  
12    question on the table, and we can go  
13    back, is, what are those requirements  
14    that you had to ensure compliance with.

15           A.     There are a certain number of  
16    conditions of participation in the  
17    Medicaid program.  Those conditions of  
18    participations are further delineated  
19    into standards.

20                   Yes, I have the condition --  
21    I'm sorry -- the 483 regs. in my office.

22           Q.     So 483 regs.

23           A.     I think it is.

24           Q.     You had it physically in your  
25    office?

1                   Uschakow

2           A.     Physically in my office.

3           Q.     And that's what you would  
4     refer to, to ensure compliance?

5           A.     That's what I would refer to  
6     if I needed to enlighten myself in  
7     greater detail what the definition of  
8     "compliance". To ensure compliance, I  
9     delegated to my experts on my staff.

10          Q.     And, ultimately, you had the  
11     ultimate directorial supervision over  
12     those experts; right?

13          A.     Not all of them.

14          Q.     Which didn't you directly --  
15     which weren't you directly in charge of?

16          A.     I was not in charge of the  
17     discipline coordinators.

18          Q.     Well, the discipline  
19     coordinators reported to the deputy  
20     director of operations --

21          A.     That's correct.

22          Q.     -- who reported to you.

23          A.     That's correct.

24          Q.     And, by "discipline  
25     coordinators", you're referring to field

1                   Uschakow  
2       of disciplines, like doctors, and so  
3       forth.

4           A.     I am specifically talking  
5       about physical therapy, occupational  
6       therapy, nursing, speech pathology,  
7       recreation, day treatment programming.

8           Q.     To your knowledge, did  
9       Valerie Young ever receive physical  
10      therapy while under the care of BDC?

11          A.     Yes.

12          Q.     When?

13          A.     I don't understand, "when"?

14          Q.     I'm asking for a temporal  
15      time reference to your response.

16                  You said "yes", she received  
17      care, and my question is when did she  
18      receive --

19          A.     When did she receive the  
20      care?

21          Q.     Yes.

22          A.     I don't recall the exact  
23      dates.

24          Q.     Do you recall the year or  
25      years?

1                   Uschakow

2           Q.     Do you recall having a  
3     discussion about the treatment and care  
4     of Valerie Young with anyone at BDC prior  
5     to her death?

6           A.     I do recall relaying to the  
7     deputy director concerns about reduced  
8     ambulation on the part of Valerie Young  
9     after a phone call by Mrs. Viola Young.

10          Q.     And when you said you recall  
11     a discussion with the deputy director of  
12     operations, are you referring to Arya or  
13     Jan Williamson?

14          A.     I am not sure which one it  
15     was.

16          Q.     Can you describe, in greater  
17     detail, the substance of your  
18     conversation with the deputy director at  
19     that time?

20          A.     That Viola Young -- Mrs.  
21     Viola Young, had called me to air her  
22     concern about Valerie's reduced walking  
23     ability, and I shared exactly that with  
24     the deputy for follow-up with the  
25     treatment team.

1                   Uschakow

2           Q.     And did anyone report back to  
3     you, after you shared that with your  
4     deputy director?

5           A.     I do not recall.

6           Q.     Do you recall you following  
7     up with anyone to determine what had  
8     happened after you had spoken to the  
9     deputy director?

10          A.     I do recall, after the phone  
11     conversation, seeing Valerie in Building  
12     5 being assisted to walk.

13          Q.     That wasn't my question. We  
14     will get to that in a second.

15                   My question is, did you  
16     follow up with anyone.

17          A.     No.

18                   MR. VELEZ: Counsel, that can  
19     be construed as "follow-up",  
20     because --

21                   MR. CATAFAGO: Okay, so let's  
22     go there.

23          Q.     When you saw her in Building  
24     5, was it happenstance viewing or were  
25     you specifically going to see whether or

1                   Uschakow

2       not anything had been done following your  
3       discussion with the deputy director?

4           A.     I periodically make rounds of  
5       all of the program areas, and happened to  
6       see Valerie.

7           Q.     And you saw her being  
8       assisted with someone?

9           A.     Yes.

10          Q.     Do you know who was assisting  
11       her?

12          A.     No.

13          Q.     Was it one person or more  
14       than one?

15          A.     I remember one person.

16          Q.     Was she using a wheelchair at  
17       the time?

18          A.     No.

19          Q.     Was the wheelchair beside her  
20       at the time?

21          A.     I don't recall seeing it.

22          Q.     Did you ever see Valerie  
23       Young in a wheelchair at all?

24          A.     Yes.

25          Q.     How many times?



1                   Uschakow

2           A.     I couldn't tell you.

3           Q.     Did you see her -- withdrawn.

4                   You made -- you would make

5 rounds periodically or was it regular

6 that you would make rounds?

7           A.     I don't understand the

8 question.

9           Q.     Well, when you were director

10 at BDC, how often would you walk around

11 to look at the patients?

12           A.     It varies, it varies on the

13 pressures of the office.

14           Q.     Approximately how many times,

15 if you can approximate, did you actually

16 see Valerie Young?

17                   MR. VELEZ: During what time?

18                   MR. CATAFAGO: The time that

19 she was there.

20           Q.     Once a week?

21           A.     As a direct-- since my

22 arrival there?

23           Q.     Well, since your arrival

24 there, since you were deputy director.

25           A.     No way I could count.